



7.A.

CITY OF FALLS CHURCH

Development Services Department

Staff Report
February 24, 2009

ISSUES

The renewal of a Special Use Permit for a Major Home Occupation (Accounting Office).

PROJECT BACKGROUND

The applicant, Ravi Garg, proposes to continue his accounting business from a residence located at 1000 South Washington Street. Mr. Garg owns the property and has operated his business from this location since 1993 with multiple renewals of his special use permit. His current special use permit, granted June 17, 2004, is due to expire in June 2009. Mr. Garg seeks an indefinite renewal. The property is zoned R-1B, medium density residential. The Comprehensive Plan designates the area as Transitional for office uses. Section 38-17(c) of the Zoning Code allows a major home occupation as an accessory use in a single-family dwelling, by special use permit in a residential district by referencing Section 38-16(c)(10).

The City has not received any complaints in the more than 16 years that Mr. Garg has conducted his accounting office at the subject site. The driveway for this property is on South Washington Street, a major thoroughfare, which makes vehicular ingress and egress difficult. However, short term street parking is located an easy walkable distance on both West George Mason Road and on West Greenway Boulevard.

The City's Zoning Division notified adjacent property owners of this request on February 17, 2009. The Board of Zoning Appeals is scheduled to consider this item at its March 11, 2009 meeting.

ACTION REQUESTED

The Planning Commission is requested to make a recommendation to the Board of Zoning Appeals on the renewal of the special use permit.

PROFFERS/VOLUNTARY CONCESSIONS

On each previous application, Mr. Garg has voluntarily agreed:

1. That the hours of operation are from 9 AM to 6 PM on Monday through Friday, and from 9 AM to 8 PM Monday through Saturday during tax season (February 15 through April 15);
2. That the maximum number of clients per day will be four (4) except during tax season, when the maximum number per day would be nine (9);
3. That the office be located on the main level of the house;
4. That this special use permit be used for this applicant only and not be transferred to another person or property.

Further, Mr. Garg accepts clients only by appointment. After the first renewal of his special use permit, Mr. Garg has agreed to a five (5) year period for each special use permit extension.

CONCERNS

The Zoning Division has never received any written complaints concerning this use.

STAFF RECOMMENDATION

Staff supports a renewal of the special use permit requested. Staff recommends that the Planning Commission recommend to the Board of Zoning Appeals renewal of the special use permit for a Major Home Occupation (Accounting Office) to Mr. Garg at 1000 South Washington Street for an indefinite period.

ATTACHMENTS

- A: Zoning Ordinance Requirements
 - 1. Section 38-17(c) of the Code of the City of Falls Church
 - 2. Section 38-16(c)(10) of the Code of the City of Falls Church
- B: Application Form and Letter
- C. Board of Zoning Appeals Resolution #6, June 17, 2004
- D. Public Notice with Vicinity Map
- E. Site Photographs
- F. Sample Motion

a one-family dwelling on the abutting property or to the minimum yard required by these regulations, whichever is greater.

b. For all other principal or conditional uses, thirty (30) feet for front yard, twenty-five (25) feet for side yard, and forty (40) feet for rear yard.

c. For buildings containing only accessory uses, thirty (30) feet for front yard, three (3) feet for side yard, and three (3) feet for rear yard.

d. One-family dwellings shall be located so that the front of the dwelling is oriented toward the front setback and street; the side of the dwelling toward the side setback and the rear of the dwelling toward the rear setback. The Planning Commission may grant a waiver to this provision if such a waiver is based on a finding of compatibility with surrounding properties.

(4) Maximum building height.

a. For residential use, the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.

b. For all other principal or conditional uses, the lesser of forty-five (45) feet or three (3) stories.

c. For buildings containing only accessory uses, twelve (12) feet, except as permitted by the HCC district section 38-39(g)(6).

(5) Maximum lot coverage by all buildings.

a. For residential use, twenty-five (25) percent.

b. For other uses, thirty (30) percent.

(6) Supplementary regulations. Principal and conditional uses shall comply with the applicable standards contained in sections 31-28; 38-30 and 38-42.

(7) Additional requirements. For additional requirements as to height, lot, yard, and related regulations see section 38-28.

(Code 1973, § 81-32; Ord. No. 789; Ord. No. 908; Ord. No. 987, 11-9-81; Ord. No. 1039, 2-28-83; Ord. No. 1084, 10-9-84; Ord. No. 1142, 6-23-86; Ord. No. 1338, 12-10-90; Ord. No. 1632, 2-8-99; Ord. No. 1721, 6-10-02; Ord. No. 1766, 9-13-04)

Sec. 38-17. R1-B, medium density residential district.

(a) Intent. This district shall be comprised generally of land designated for medium density residential use on the adopted master plan. This district is created for the purpose of maintaining the residential character of the city, preserving the integrity of residential neighborhoods, and meeting the residential needs of the population.

(b) Principal uses permitted by right.

(1) Any principal use permitted in the R-1A district,

(2) Two-family dwellings.

→ (c) Conditional uses permitted by special use permit.

(1) Any conditional use permitted in the R-1A district.

any such line, and is not defined by dimensions or other means, it shall be determined by scaling.

(c) In case any territory has not been clearly included within one or more of the districts established herein, or in case any territory is annexed to or otherwise becomes a part of the incorporated area of the city, such territory shall be deemed to be classified in the R-1A District until otherwise classified by amendment as provided herein.

(d) The official zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating the conditions which apply to the property in question in addition to the specific and general regulations set forth in this chapter.

(Code 1973, § 81-31; Ord. No. 894)

Sec. 38-16. R-1A, low density residential district.

(a) Intent. This district shall be comprised generally of land designated for low density residential use on the adopted master plan. This district is created for the purposes of maintaining the single-family residential character of the city, preserving the integrity of residential neighborhoods, meeting the residential needs of the population, preserving attractive residential open space and providing space for natural landscaping.

(b) Principal uses permitted by right.

(1) One-family dwellings.

(2) Churches, parish houses, parochial schools and similar religious facilities.

(3) Public parks, playgrounds, community centers, libraries, museums and schools and similar public facilities.

(4) City-owned water and sewage pumping stations and water supply reservoirs.

(5) Gardens.

(6) Group homes for mentally ill, mentally retarded, developmentally disabled or handicapped persons. Mentally ill, mentally retarded, developmentally disabled or handicapped shall not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401 of the Code of Virginia or as defined in Section 102 of the Controlled Substance Act (21 U.S.C. § 802). Handicapped is defined here by incorporating by reference the definition in Federal Fair Housing Amendments Act of 1988 and in regulations (24 C.F.R. Part 14, et. al) duly adopted under Fair Housing Amendment Act. Group homes for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority pursuant to the Code of Virginia shall be deemed to be a group home permitted by right.

(c) Conditional uses permitted by special use permit.

(1) Private schools, special schools or day care facilities complying with the provisions of the state Code or Chapter 30 of the City Code.

(2) Telephone exchanges and other public utility buildings and structures necessary to the furnishing of service in the vicinity, but not public business offices and storage, repair or maintenance buildings or yards.

(3) Private clubs, lodges, and recreational or community facilities, none of which shall be of commercial nature.

(4) Cemeteries.

(5) Hospitals for human care.

(6) Residential institutions, including, but not limited to, rest homes, nursing homes, convalescent homes, orphanages and similar uses, except a secure or detention facility, which shall mean a public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of persons held in lawful custody.

(7) Amateur radio or amateur television stations or citizens band transmitters, except any transmitters that cause radio or television interference off the property within normal bands of FM or AM commercial broadcasting.

(8) Museums, other than those permitted by right.

(9) Group homes not otherwise permitted by right above.

(10) Major home occupation as an accessory use to a one-family dwelling.

(11) An accessory dwelling unit, in strict accordance with the following requirements and consistent with the public health, safety and welfare:

1. Either the accessory dwelling unit or the principal dwelling units shall be occupied by an owner. In the event the occupying owner dies, the special use permit for the accessory unit shall expire one hundred eighty (180) days from the date of the owner's death, unless within this one hundred eighty-day period the new owner also occupies the accessory unit or the principal dwelling and states in writing to the zoning administrator that he wants to continue the accessory unit under the terms of the existing permit.

2. In the event the occupying owner vacates the premises the special use permit for the accessory dwelling unit shall expire ninety (90) days from the date on which the owner vacates the premises.

3. When title to the property changes hands, the special use permit for the accessory dwelling unit shall expire ninety (90) days from the date on which title changes hands, unless within this ninety-day period the new owner also occupies the accessory unit or the principal dwelling and states in writing to the zoning administrator that he wants to continue the accessory unit under the terms of the existing permit.

4. Only one accessory dwelling unit shall be permitted per principal dwelling unit.

5. The habitable floor area of the accessory dwelling unit shall not exceed one-half (1/2) the habitable floor area of the principal dwelling unit.

6. One off-street parking space shall be required for each accessory dwelling unit in addition to the parking required for the principal dwelling unit, except that stacked parking



CITY OF FALLS CHURCH

Department of Development Services
Zoning Division
Phone: 703.248.5015
Fax: 703.248.5280
Harry E. Wells Building
300 Park Avenue, Falls Church, VA 22046-3332

APPLICATION FOR VARIANCE, APPEAL OR SPECIAL USE PERMIT

Fees:
Variance— \$ 200.00 + \$ 25.00 for each additional code section variance
Special Use Permit— \$ 400.00 for non-residential
✓ \$ 300.00 for residential
\$ 100.00 for home day-care and in-home education services
Appeals— \$ 200.00 per code section subject to determination

This application is being filed for the purpose of:

☐ Variance to the code ☒ Special Use Permit ☐ Appeal of a determination under Chapter 38

RAVI GARG 2/3/2009
Applicant name (please print) Date of application
1000 S. WASHINGTON STREET (571) 331-5850 (cell)
Applicant street address, city and state Applicant phone

Applicant: ☒ Owns subject property ☐ Leases or rents subject property ☐ Contract purchaser

Complete this section only if the applicant is not the owner of the subject property:

"As owner of this property I hereby authorize the applicant to seek this action before the Board of Zoning Appeals and I attest that the information contained herein is correct."

Property owner name (please print)

Property owner street address, city and state _____
Owner signature

"AS APPLICANT I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS CORRECT"

Ravi G 2/3/2009
Applicant signature Date

—OFFICE USE BELOW—

Application number	0-1466	Fees	\$ 300. ⁰⁰	Received fees	AK#7331 2-3-09
Property legal description, address, section, lot, subdivision					
1000 S. Washington St Lot 502 RPC #52-404-003					
Summary of action requested					
Renewal of SUP # 04-427					
DISPOSITION: After a public hearing on <u>1/1</u> the above application was				<input type="checkbox"/> Granted <input type="checkbox"/> Denied	
<input type="checkbox"/> See notes or conditions set by BZA Zoning Administrator:					

Revised 4/2007

20090050

Ravi Garg
1000 S. Washington Street
Falls Church, VA 22046
(571) 331-5850
E-mail: rgarg@aol.com

February 3, 2009

Board of Zoning Appeals
City of Falls Church
300 Park Avenue
Falls Church, VA 22046

RE: Special Use Permit for a Major Home Occupation

Dear Sir or Madam:

I am the owner of 1000 S. Washington Street, Falls Church City and have operated an accounting and tax service at this location since 1994.

During the past 15 years of operation no complaints about my business operations has been received by the City. I do not have a negative impact on the peace, health, safety and public welfare of my neighbors.

The current permit, Permit # 04-427, was renewed for 5 years on June 17, 2004. It is requested that a Special Use Permit for a Major Home Occupation (Accounting) be re-issued. It is also requested, given my adherence to City rules, that the Special Use Permit be made permanent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ravi Garg', with a stylized flourish at the end.

Ravi Garg

RESOLUTION # 6

June 17, 2004

Falls Church
Board of Zoning Appeals
Application U1466-04(3)

WHEREAS, Ravi Garg appeared before the Board of Zoning Appeals, was duly sworn, and made application for a variance described as follows:

U1466-04(3) by Ravi Garg, owner, for a Special Use permit for a Major Home Occupation (Accounting Office), in accordance with Section 38-16, subsection (c)(10) on premises known as **1000 S. Washington Street**, (Lot 502 ((12)) Section 16) of the Falls Church Real Property Identification Map Zoned R-1B, (Medium Density Residential).

WHEREAS, Mr. Garg wished to renew his Special Use permit for a Major Home Occupation; and

WHEREAS, Mr. Garg demonstrated sufficient cause for renewal.

NOW THEREFORE BE IT RESOLVED that the Board of Zoning Appeals in accordance with Chapter 17 of the City Charter and under the authority of Section 38-16 Subsection (c) (10) voted to renew the Special Use Permit as described in application U1466-04(3) for 5 years.

VOTE:

MR. PELLETIER	YES
MR. KRACHMAN	YES
MS. EARMAN	YES
MR. STOODLEY	YES



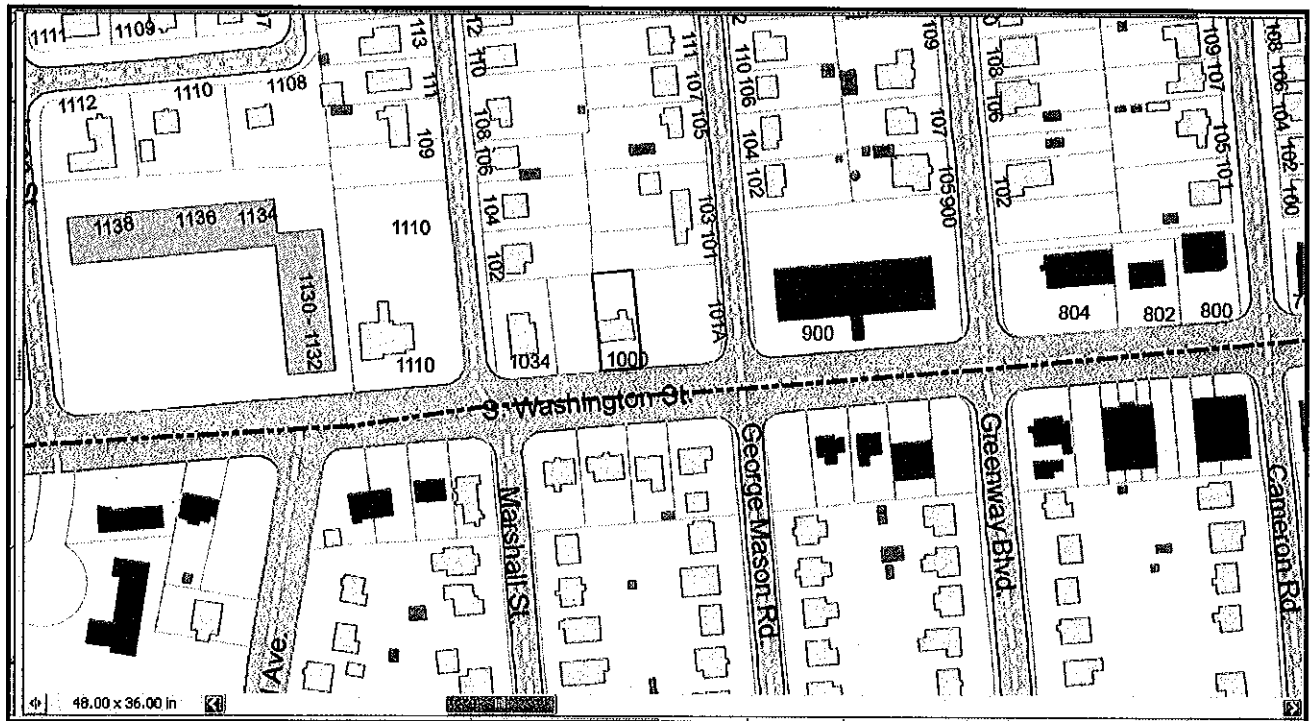
CITY OF FALLS CHURCH

PUBLIC NOTICE

The Board of Zoning Appeals of the City of Falls Church, Virginia will hold a public hearing on March 12, 2009 at 7:45 pm in the Council Chambers, 300 Park Avenue, for consideration of the following subject:

U1466 (renewal) an application by Ravi Garg, owner, for renewal of a Special Use Permit for a Major Home Occupation (accounting office), in accordance with Section 38-16(c)(10) on premises known as **1000 S. Washington Street**, Lot 502, Section 5 of Greenway Downs of the Falls Church Real Property Identification Map, zoned R-1B Medium Density Residential.

The Planning Commission will also consider this matter on March 2, 2009 for purposes of making a recommendation to the Board of Zoning Appeals.

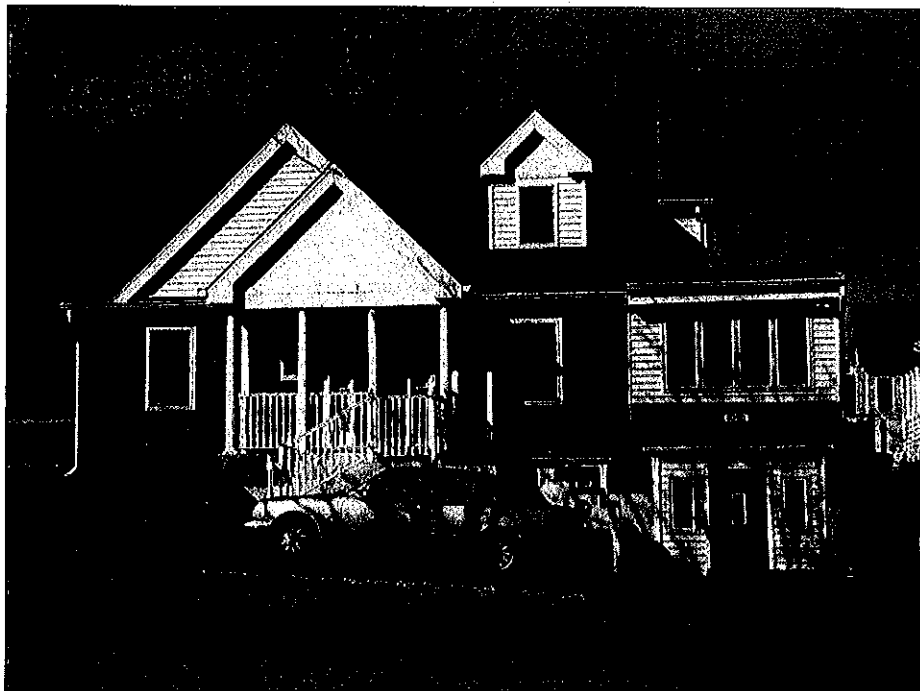


Information on this item is available in the Zoning Administrator's office at City Hall, West Wing 301, 300 Park Avenue, Falls Church, Virginia.

Harry E. Wells Building • 300 Park Avenue • Falls Church, Virginia 22046



1000 S. Washington



Harry E. Wells Building • 300 Park Avenue • Falls Church, Virginia 22046 •

SAMPLE MOTIONS

FOR APPROVAL (Recommended by Staff)

I move that the Planning Commission recommend that the Board of Zoning Appeals **approve** Application 20090050 for the subject property known as 1000 South Washington Street, with the following conditions:

1. that the hours of operation are from 9 AM to 6 PM on Monday through Friday, and from 9 AM to 8 PM Monday through Saturday during tax season (February 15 through April 15);
2. that the maximum number of clients per day will be four (4) except during tax season, when the maximum number per day would be nine (9);
3. that the office be located on the main level of the house;
4. that this special use permit be used for this applicant only and not be transferred to another person or property; and
5. that the application be approved indefinitely.

FOR DENIAL

I move that the Planning Commission recommend that the Board of Zoning Appeals **deny** Application 20090050 for the following reasons:

[Planning Commission to provide reasons].

FOR APPROVAL WITH PLANNING COMMISSION MODIFICATIONS

I move that the Planning Commission recommend that the Board of Zoning Appeals **approve** Application 20090050, with the following modifications:

[Planning Commission to provide modifications/conditions.]